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MISSOULA, MT

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PATRICK E. DUFFY
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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

MISSOULA DIVISION

JACQUELINE MITCHELL,)	CV 04-64-M-LBE
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
JOANNE B. BARNHART,)	
Commissioner of Social Security,)	
)	
Defendant.)	
)	

United States Magistrate Judge Leif B. Erickson entered Findings and Recommendation in this matter on June 20, 2004. Jacqueline Mitchell did not timely object and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Mitchell was approved to proceed in forma pauperis in January of 2002, but she never served her Complaint on Defendant.

Two years passed with no activity on the case and so the Court ordered that Mitchell file a status report. Mitchell failed to file a status report and to date has not provided the Court with an updated address or contact information.

Judge Erickson issued his Findings and Recommendation on June 20, 2004. He recommends that this action be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mitchell has failed to comply with this Court's orders to serve her Complaint, file a status report, and keep the Court informed of her current address and contact information.

Judge Erickson's findings and recommendation are not clearly erroneous. Four years have passed since this Court ordered Mitchell to serve her Complaint and there has been no activity in the case other than this Court's orders. This case warrants Rule 41(b) involuntary dismissal not only because Mitchell has failed to comply with the Court's orders, but also because she has failed to prosecute this case.

Therefore, it is HEREBY ORDERED that Judge Erickson's Findings and Recommendation (dkt #6) are adopted in full and the above entitled action is DISMISSED.

DATED this 25 day of January, 2006.

Donald W. Molloy, Chief Judge
United States District Court

